

Railroad Retirement Board

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from moneys which are otherwise payable to an individual, to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments. For purposes of this subchapter, legal process additionally includes assignments in lieu of garnishment, but only where grounds for the issuance of legal process in the nature of garnishment exist. Such assignments are revocable.

(d) *Legal obligation* means an obligation to pay alimony or child support which is enforceable under appropriate state law.

[45FR 28314, Apr. 29, 1980, as amended at 53 FR 35807, Sept. 15, 1988]

§ 350.3 Procedure.

(a) Service of legal process brought for the enforcement of an individual's obligation to provide child support or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, directed to the Deputy General Counsel of the Board, 844 Rush Street, Chicago, Illinois 60611, or by personal service upon the Deputy General Counsel.

(b) Where the Deputy General Counsel is effectively served with legal process relating to an individual's legal obligation to provide child support or to make alimony payments, he shall, as soon as possible and not later than 15 days after the date of effective service of such process, send written notice that such process has been so served, together with a copy thereof, to the individual whose moneys are affected thereby; and, if response to such process is required, shall respond within 30 days, or within such longer period as may be prescribed by state law, after the date effective service is made. These requirements do not apply in the case of an assignment in lieu of garnishment or an assignment of a portion, attributable to the existence of the annuitant's family members, of a railroad retirement annuity computed under the social security minimum guaranty provision of the Railroad Retirement Act.

(c) Included with the legal process issued to the Board should be the name of the individual against whom the legal obligation to provide child support or to make alimony payments is

sought to be enforced and, if available, the individual's social security or railroad retirement number, the individual's address, and the type of benefit that the individual is receiving from the Board.

(d) Legal process which refers to a payment in terms of a percentage of some other amount must also refer to that payment in terms of a specific amount or amounts. In connection with any legal process which does not refer to a payment in terms of a specific amount or amounts, the Board may compute the amount or may comply with that portion of the legal process which specifies an amount or amounts and withhold compliance with the balance of the process pending clarification from the issuing court or from the party which procured that process.

[45 FR 28314, Apr. 29, 1980, as amended at 48 FR 51448, Nov. 9, 1983]

§ 350.4 Exemptions.

(a) Unless a lower percentage or dollar amount limitation on garnishment is provided by applicable state or local law, the portion of any payment due to an individual which is subject to legal process to enforce any order for the support of any person shall not exceed 65 percent. Where the individual is supporting a spouse or dependent child, other than a spouse or child with respect to whose support that legal process is issued, the portion subject to legal process is reduced by 10 percent. Where the alimony or support arrearage is less than 12 weeks old, the portion subject to legal process is reduced by 5 percent. If a lower limitation is provided by applicable state or local law, then that lower limitation shall be applied.

(b) In the absence of some evidence to the contrary, it will be assumed that the defendant is not supporting a spouse or dependent child other than a spouse or child with respect to whose support the legal process is issued.

(c) In any case in which a recurring benefit payment is reduced, whether due to a recovery by the Board of an overpayment or for some other reason, below the rate at which it is ordinarily paid, any applicable exemptions shall be applied to the amount of the reduced benefit which is actually paid.

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(d) For purposes of the applicability of exemptions, amounts deducted for medicare premiums must first be subtracted from the annuity amount.

[45 FR 28314, Apr. 29, 1980]

§ 350.5 Miscellaneous.

(a) The Board may not be required to vary its normal disbursement cycles in order to comply with legal process. However, legal process which is received too late to be honored during the disbursement cycle in which it is received may be honored to the extent that the legal process may, in compliance with this part, be satisfied from the next payment due to the obligor.

(b) Except as provided in these regulations, the Board may not be required in connection with proceedings under this part to forward documents which have been sent to the Board, to an individual, whether or not he is entitled to benefits paid by the Board, or to disclose information other than that relating to the type, amount (whether actual or estimated), and dates of payment of benefits paid by the Board to that individual.

(c) Neither the Board nor any of its employees shall be liable with respect to any payment made to any individual from moneys due from or payable by the Board pursuant to legal process regular on its face, if such payment is made in accordance with this part.

(d) No employee of the Board whose duties include responding to legal process pursuant to requirements contained in this part shall be subject under any law to any disciplinary action or civil

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or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the performance of the employee's duties in responding to any such process.

(e) For purposes of a proceeding under this part, the Board will apply the law of the state in which the legal process is issued unless it comes to the attention of the Board that the state of issuance has no contact with the plaintiff or defendant in the action; in which case, the Board may, in its sole discretion, apply the law of any state with significant interest in the matter.

(f) No acknowledgement or response will be made to legal process which does not contain the mailing address to which acknowledgement may be made. No response to any legal process will be notarized or verified.

[45 FR 28314, Apr. 29, 1980, as amended at 50 FR 12242, Mar. 28, 1985]

§ 350.6. Garnishment of payments after disbursement.

Payments that are covered by 45 U.S.C. 231m or 45 U.S.C. 352(e) and that are made by direct deposit are subject to 31 CFR part 212, Garnishment of Accounts Containing Federal Benefit Payments. This section may be amended only by a rulemaking issued jointly by the Department of the Treasury and the agencies defined as a "benefit agency" in 31 CFR 212.3.

[76 FR 9961, Feb. 23, 2011]

EFFECTIVE DATE NOTE: At 76 FR 9961, Feb. 23, 2011, § 350.6 was added, effective May 1, 2011.